(Previous unrelated matter deleted)

* * * *

THE COURT: ... . I understood you had another application, Mr. Jesserer, with respect to the testimony of the victim.

MR. JESSERER: That's correct, your Honor. My first witness this morning will be Mrs. Haley, who is the victim in this matter, and I would request that the Court exclude also spectators from the courtroom during the course of her direc and cross-examination and any further examination during the trial.

THE COURT: Mr. Miller.

MR. MILLER: Your Honor, I would oppose that application.

THE COURT: He does have a right to a speedy and open trial. I am going to preserve his right

to an open trial, but at the same time take into consideration the nature of the charges and what is alleged to have occurred here. I am, therefore, going to ban spectators from the courtroom, but in order to guarantee his right to an open trial, that ban will exclude any representatives of the press.

MR. MILLER: I respectfully except to that, if the Court please, the ruling, sir.

* * * *

(The opening statement of the prosecutor to the court followed)

* * * *

THE COURT: All spectators, except representatives of the press, are excluded.

MR. MILLER: Your Honor, the defendant's mother, is she precluded, too?

THE COURT: How old is the defendant?

MR. MILLER: The defendant is 19.

THE COURT: Yes, she is excluded.

MIRANDA HALEY, called herein as a witness on behalf of the People of the State of New York, having first been duly sworn by the Clerk of the Court, was examined and testified as follows:

THE COURT: Mrs. Haley, how do you spell your last name?

THE WITNESS: H-a-l-e-y.

THE COURT: Mrs. Haley, I know that this is going to be not an easy or pleasant thing for you. It may become rather difficult. Take your time. There is no jury here. The only one you have to be concerned about hearing you is myself, because I will be making the determinations of fact here. If at any point you want to pause or recess, just indicate that. Okay?

THE WITNESS: Yes.

DIRECT EXAMINATION BY MR. JESSEKER:

Q. Would you like a drink of water, Mrs. Haley?

A. Yes.

THE COURT: Mr. Clifford will get it for her. He was just making sure the courtroom is battened down. We have an attendant there now.

Q. Mrs. Haley, how old are you, ma'am?

A. Twenty-nine.

Q. On March 20, 1975, how old were you then?

A. Twenty-seven.

Q. Are you married?

A. Yes.

Q. How long have you been married?

A. Seven years.

Q. Do you have any children?

A. One.

Q. How old is your child?

A. He is now three years.

Q. You have to talk right up so everybody can hear you.

* * * *

SUPREME COURT OF THE UNITED STATES

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

RICHARD LEE DAWSON,

Petitioner,

-vs-

STATE OF NEW YORK,

Respondent.

Petitioner, Richard Lee Dawson, who is now held in the New York State Correctional Facility at Elmira, New York, asks leave to file the attached petition for a writ of certiorari to the Supreme Court of New York, Appellate Division, Fourth Judicial Department without prepayment of costs and to proceed in forma pauperis. An application to proceed as a poor person was made to the Court below and that application was granted. The petitioner's affidavit in support of this petition is attached hereto.

Edward John Nowak
Counsel for Petitioner

AFFIDAVIT IN SUPPORT OF PETITION FOR LEAVE TO PROCEED

IN FORMA PAUPERIS

RICHARD LEE DAWSON,

Petitioner,

-vs-

STATE OF NEW YORK,

Respondent.

I, Richard Lee Dawson, being first duly sworn according to law, depose and say that I am the petitioner in the above-entitled cause, and, in support of my application for leave to proceed without being required to prepay costs or fees, state:

1. Because of my proverty I am unable to pay the costs of said cause.

2. I am unable to give security for the same.

3. I believe that I am entitled to the redress I seek in said cause.

4. The nature of said cause is briefly stated as follows:

I was convicted of rape, first degree and robbery, second degree on December 3, 1976, in New York State Supreme Court, County of Monroe, Rochester, New York. My conviction was affirmed by a divided appellate court (People v. Dawson, 442 N.Y.S.2d 333) that held my right to a public trial was not denied when the

court closed the courtroom, over objection of my counsel, during the testimony of the complainant. My application for permission to appeal to the Court of Appeals was denied. I have exhausted my appellate remedies in the State of New York and my conviction stands affirmed. I respectfully pray that the United States Supreme Court review the determination of the New York Courts.

Richard L. Dawson

RICHARD LEE DAWSON

this 25th day of February 1982

E. Gene Callihan

NOTARY PUBLIC

E. GENE CALLIHAN
Notary Public # 8578880
Chautauqua County, New York State
Commission Expires March 30, 1982